



City of Seattle

Department of Planning and Development
D.M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3011189 and 3011319

Applicant Name: Dan Duffus, Soleil LLC (3011189)
Brittani Ard for Dan Duffus, Soleil LLC (3011319)

Address of Proposal: 5431 49th Ave SW

SUMMARY OF PROPOSED ACTION

3011189 - Land Use Application to allow two single family residences in an environmentally critical area. Existing structure to remain. Environmental review includes unit lot subdivision.

3011319 - Land Use Application to subdivide one development site into two unit lots in an environmentally critical area. Environmental and Administrative Conditional Use review for the future construction of an additional single family residence is being conducted under 3011189. Construction of the additional single family residence is being reviewed under building permit application No. 6251061. The existing single family is to remain. This subdivision of property is only for the purpose of allowing sale or lease of the unit lots. Development standards will be applied to the original parcel and not to each of the new unit lots.

Environmentally Critical Areas Administrative Conditional Use – to include environmentally critical areas and buffers in calculating the maximum number of lots and units allowed on the parcel (SMC 25.09.260)

SEPA - Environmental Determination (SMC Chapter 25.05)

Unit Lot Subdivision - To create two unit lots (SMC 23.24)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Zoning: Single Family Residential (SF 7200).

Date of Site Visit: 4/30/2010.

Uses on Site: Construction of single family residence in review under 6251061.

Substantive Site Characteristics

The subject site is a midblock property located on the west side of 49th Ave SW between SW Brandon St and SW Findlay St. The site is zoned Single Family 7200, and this zone continues to the north, south, and west of the site. Single Family 5000 is located to the east of the site. The lot does not have alley access. All nearby streets are improved with curb, gutter, sidewalk, parking strip, and paving. Nearby uses are predominantly detached single family residences.

A steep slope Environmentally Critical Area (ECA) is located on the western portion of the site, which is part of a ridge that runs north and south of the property, and slopes down to the west toward Puget Sound. The site is also designated with a Wildlife ECA and a Potential Slide ECA. Through this review, two wetlands were identified on parcels to the west of the subject property. A portion of the required buffer around one of those wetlands is located on the western portion of the subject property.

Description of Proposal

The applicant proposes to build one additional single family residence on the southern portion of the lot. The applicant also proposes a unit lot subdivision of the property to create two lots for purposes of sale. The applicant was denied an Environmentally Critical Areas steep slope exemption for the proposed construction and grading.

The proposed 2,808 square foot residence would be three stories with a garage at grade, accessed from a curb cut at 49th Ave SW. The proposed structure would be located 5 feet from the south property line, 16' from the east property line, and 5' from the proposed shared property line (10' from the existing structure on site). The front yard requirement has been reduced by four feet (from 20 feet to 16 feet) in order to maintain the full width of the steep slope area buffer, per SMC 23.44.014.D.15 and 25.09.280.A. Total proposed lot coverage is 9.16% for the existing and proposed structures on the existing lot.

Several trees are located on site, with most of the canopy located on the western sloped portion of the site, the northeast corner, and the south property line. Four trees in the southeastern area of the lot are proposed for removal, with an additional 19 trees proposed for planting. Additional native plants would be installed in the eastern portion of the lot.

According to the survey provided by the applicant, the total area of the subject property is 30,589.98 square feet. On a site with no ECAs, (SMC 23.24), this is enough area to subdivide the property for four new lots meeting the lot area standards of the SF-7200 zone. However, limitations on standard subdivisions are placed on sites with ECA's under SMC Section 25.09.240. SMC Section 25.09.240.E.2 requires that steep slope areas and wetland buffers be

subtracted from the land area that can be counted towards the minimum lot size, so four lots would not be possible at this site. The applicant has instead chosen to apply for an Environmentally Critical Areas Administrative Conditional Use (SMC 25.09.260) and a Unit Lot Subdivision (SMC 23.24.045) to allow two houses on one “parent” lot. The ACU process allows consideration of smaller than required lot sizes and yards, as well as clustering of more than one dwelling unit per lot, if it is not practicable to meet the subdivision requirements of Section 25.09.240.B considering the parcel as a whole.

The applicant has proposed a second residence on the lot that would meet all minimum yard requirements as expected by SMC 23.44.014.D.15, even without the Unit Lot Subdivision allowance for smaller yards for individual unit lots.

Public Comment

3011189: Notice of application was issued on April 26, 2010. Four public comment letters were received, with concerns about slope stability, impact to views, construction noise, impacts to neighborhood character, and impacts to wildlife habitat.

3011319: Notice of application was issued on May 20, 2010. Four public comment letters were received, with concerns about slope stability, impacts to wildlife habitat and adjacent wetland, construction noise and debris, drainage and runoff, tree removal, increased impervious surface, property values, economic viability of the developer, and appearance of a ‘skinny’ house.

Environmentally Critical Areas Regulations

SMC Section 25.09.180 provides specific standards for all development on steep slopes and steep slope buffers on existing lots, including the general requirement that development shall be avoided in these areas whenever possible.

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property as well as specific construction methods and procedures. The proposal must also comply with the specific requirements for development in areas with landslide potential areas (Section 25.09.080), wetlands (Section 25.09.160), steep slopes (Section 25.09.180), and trees and vegetation (Section 25.09.320). All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

SMC Section 25.09.260 makes provision for an Environmentally Critical Areas Conditional Use Permit (ECA ACU). The development must be located outside of the ECA areas, protect and improve existing habitat, and be compatible with the existing neighborhood. Relevant criteria are discussed below. ECA \ACU decisions, Unit Lot Subdivision decisions, and SEPA determinations are Type II decisions, which are subject to the provisions of SMC 23.76 and are appealable to the City Hearing Examiner.

**ANALYSIS – ENVIRONMENTALLY CRITICAL AREAS ADMINISTRATIVE
CONDITIONAL USE**

Section 23.42.042 of the Seattle Land Use Code authorizes review of conditional use permits according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. Section 25.09.260 of the ECA ordinance sets forth the review criteria for Administrative Conditional Use Permits [ECA\ACU] to create development with smaller than required lot sizes and yards, and/or more than one (1) dwelling unit per lot. Applicable review criteria and supporting analysis follows:

SMC 25.09.260. Environmentally Critical Areas Administrative Conditional Use.

B. Standards. The Director may approve an administrative conditional use for smaller than required lot sizes and yards, and/or more than one (1) dwelling unit per lot if the applicant demonstrates that the proposal meets the following standards:

1. Environmental Impacts on Critical Areas.

- a. No development is in a riparian corridor, shoreline habitat, shoreline habitat buffer, wetland, or wetland buffer.***

A Category III wetland and a Category IV wetland are located just west of the subject property. The wetlands are both located over 250' from the edge of any proposed development on the site and separated from the existing and proposed residences by a vegetated steep slope.

The applicant provided a wetland delineation (dated May 27, 2010 by Dr. Roger del Moral of del Moral and Associates), which was analyzed by DPD.

Per SMC 25.09.160, Category III wetlands over 100 square feet with a moderate or greater habitat function have an 85' buffer. This Category III wetland is over 100 square feet and has a score of 31 points, which is a high habitat function. The buffer is therefore 85' for this wetland. Any proposed development is at least 250' away from the edge of the wetland, so there is no proposed development in the wetland buffer.

Category IV wetlands less than 1,000 square feet do not require buffers. This Category IV wetland is less than 1,000 square feet and does not have a required buffer, per SMC 25.09.160. While the City of Seattle may consider the Category IV wetland to be a non-regulatory wetland, the US Army Corps of Engineers and Washington State Department of Ecology may regulate the wetland under the Federal Clean Water Act. It is the responsibility of the applicant to coordinate with these entities to meet other permitting requirements.

There is no riparian corridor, shoreline habitat, or shoreline habitat buffer on the subject property. No development is proposed in a riparian corridor, shoreline habitat, shoreline habitat buffer, wetland, or wetland buffer. The proposal meets this criterion.

- b. No riparian management area, shoreline habitat buffer, or wetland buffer is reduced.***

The subject property does not include any riparian management area or shoreline habitat buffer, and the proposal would not reduce any wetland buffer. The proposal meets this criterion.

- c. No development is on a steep slope area or its buffer unless the property being divided is predominantly characterized by steep slope areas, or unless approved by the Director under Section 25.09.180.B2a, b or c.***

- 1) The preference is to cluster units away from steep slope areas and buffers.***

The applicant was denied an Environmentally Critical Areas steep slope exemption, and the proposal is therefore subject to the development standards in SMC 25.09. The DPD determination for the Exemption request included a Steep Slope delineation, which clarified the top of slope and the required 15' buffer. The applicant has modified the proposed front yard to 16 feet, has proposed a unit lot subdivision with two lots that would have less than the required minimum lot size outside of environmentally critical areas, and has included a 5' construction buffer from the edge of the 15' steep slope buffer. These items are proposed in order to cluster development away from the steep slope and buffer. None of the proposed development (structures or excavation) would be located in the steep slope or buffer, as shown on the plans. The re-vegetation plan indicates planting of native plants in areas outside the steep slope and 15' buffer. The proposal meets this criterion.

- 2) The Director shall require clear and convincing evidence that the provisions of this subsection B are met when clustering units on steep slope areas and steep slope area buffers with these characteristics:***

- a) A wetland over fifteen hundred (1,500) square feet in size or a watercourse designated part of a riparian corridor;***
or
- b) An undeveloped area over five (5) acres characterized by steep slopes; or***
- c) Areas designated by the Washington Department of Fish and Wildlife as urban natural open space habitat areas with significant tree cover providing valuable wildlife habitat.***

The proposal does not cluster the units on the steep slope or steep slope buffers. Furthermore, the proposed development does not include a wetland over 1,500 square feet in size, a watercourse, an undeveloped area over 5 acres in size characterized by steep slopes, or an area designated by WDFW as urban natural open space habitat. This criterion does not apply to the proposal.

- d. The proposal protects Washington State Department of Fish and Wildlife priority species and maintains wildlife habitat.***

No priority species have been determined to be at this site. The proposal includes clustering of the proposed structures and development on the western portion of the lot, away from the steep slope area. The eastern portion of the lot has been developed with structures and ornamentally landscaped areas, and contains limited wildlife habitat. The western portion of the lot is characterized by steep slopes and increased native vegetation, which provides opportunity for wildlife habitat. The steep slope areas will remain undisturbed during construction and will not include any tree removal. Additional native vegetation is proposed for the eastern portion of the lot, outside of the steep slope and buffer. The additional native vegetation will provide additional habitat for wildlife. The proposal meets this criterion, subject to the conditions listed below.

e. The open water area of a shoreline habitat, wetland or riparian corridor shall not be counted in determining the permitted number of lots.

The wetlands described in response to SMC 25.09.260.B.1.a are located west of the subject property. The open waters of those wetlands are all located off the subject property, and are not counted in determining the permitted number of lots. The site does not contain any shoreline habitat or riparian corridor areas. The proposal meets this criterion.

f. The proposal does not result in unmitigated negative environmental impacts, including drainage and water quality, erosion, and slope stability on the identified environmentally critical area and its buffer.

All storm water runoff from impervious surfaces will be subject to a drainage control plan that complies with the City's Storm Water, Grading and Drainage Control Code. The proposed construction has been determined to be in compliance with this code under the construction application 6251061, and the DPD Drainage reviewer has approved the Drainage review for that application. The proposal meets this criterion.

g. The proposal promotes expansion, restoration or enhancement of the identified environmentally critical area and buffer.

The applicant has proposed to plant native vegetation in the eastern portion of the lot, outside of the steep slope and buffer. The proposed planting plan includes twenty two 1-gallon size native plants and 19 new trees (measuring 2" caliper to 2- 1/2" caliper at the time of planting). The proposal promotes restoration and enhancement of the identified environmentally critical area and buffer and therefore meets this criterion.

2. General Environmental Impacts and Site Characteristics.

a. The proposal keeps potential negative effects of the development on the undeveloped portion of the site to a minimum and preserves topographic features.

The potential negative effects of the development on the undeveloped portion of the site have been kept to a minimum. The proposed grading is minimal and would occur in the non-steep slope areas of the site, outside of the ECA buffer, which therefore preserves topographic features. Potential negative effects have been minimized and conditioned through this review. The proposal meets this criterion, subject to the conditions listed below.

- b. The proposal retains and protects vegetation on designated nondisturbance areas, protects stands of mature trees, keeps tree removal to a minimum, removes noxious weeds and protects the visual continuity of vegetated areas and tree canopy.***

The proposal does not include any development in the ECA areas. All the trees in the Environmentally Critical Areas would be located in a designated non-disturbance area, as conditioned below.

The applicant has provided an Arborist Report describing the trees on site and recommended tree protection plans (Report by Ryan Ringe, Certified Arborist with Arbor Barber, for 5431 49th Ave SW in Seattle, WA; report dated March 25, 2010).

There are 20 existing trees on site, 16 of which will be retained. Of those 16, two are exceptional trees. One is a 40" diameter Western Red Cedar at the southeast property corner. The other is a 35" Western Red Cedar near the northeast property corner, next to a non-exceptional 26" Western Red Cedar. All three trees would require tree protection, as described in the March 25, 2010 Arborist Report.

The remaining trees will be located in a non-disturbance area where construction activity and storage is not allowed, so no additional tree protection is needed in those areas.

The four trees proposed for removal include small diameter ornamental trees (8" Japanese Maple, 10" Holly, and 7" Plum), and one larger ornamental tree in poor condition (18" White Birch). These trees are described in the Arborist Report and recommended for removal. The trees are located on the flat portion of the southeast area of the lot, and are separated and not located together in a stand of trees. The primary areas of visual tree canopy and vegetated areas occur at the northeast and southeast property corners, and in the Environmentally Critical Area. All trees in those areas are to be retained. In addition to tree retention, the proposal includes planting native plants and trees in the non-ECA portions of the site.

The proposal meets this criterion, subject to the conditions listed below.

3. Neighborhood Compatibility.

- a. The total number of lots permitted on-site shall not be increased beyond that permitted by the underlying single-family zone.***

The subject property is 30,589.98 square feet in size and the zoning of SF 7200 requires minimum lot sizes of 7,200 square feet. The underlying single family zone permits four lots. The proposal is to build one additional residence, and unit lot subdivided the property into two lots for the purpose of sale. The two proposed unit lots are less than the number of lots that would be allowed on this site in this zone, if there were no environmentally critical areas. The proposal meets this criterion.

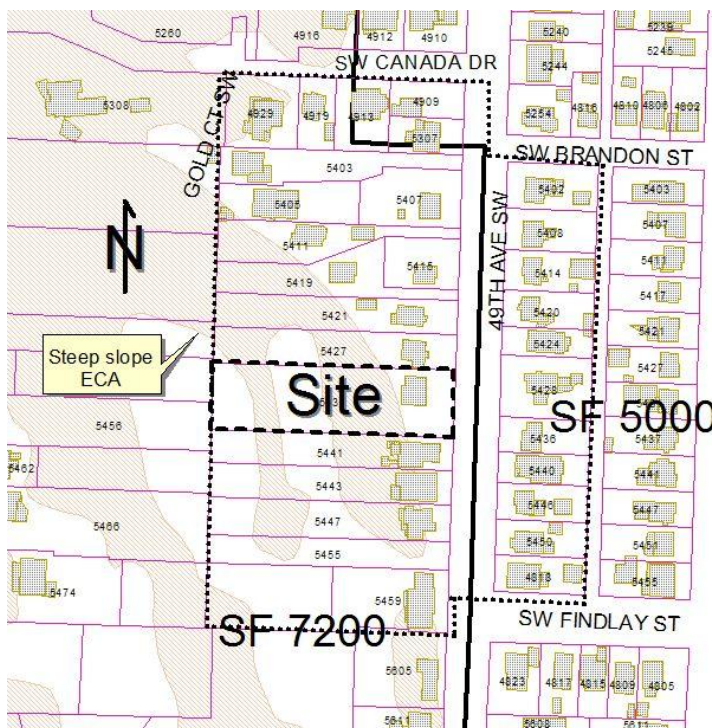
- b. Where dwelling units are proposed to be attached, they do not exceed the height, bulk and other applicable development standards of the Lowrise 1 (L-1) zone.***

There are no proposed attached dwelling units with this application. The criterion does not apply.

- c. The development is reasonably compatible with and keeps the negative impact on the surrounding neighborhood to a minimum. This includes, but is not limited to, concerns such as neighborhood character, land use, design, height, bulk, scale, yards, pedestrian environment, and preservation of the tree canopy and other vegetation.*

Neighborhood Character:

Existing: The neighborhood character of the surrounding area includes a range of sizes and styles of single family development with garages and mature trees and shrubs. The steep slope ECA that runs north-south along this area creates a major physical buffer between the properties to the west and the uphill properties to the east. The area is zoned entirely for Single Family Residential and includes SF 7200 and SF 5000 zoning. The nearest zoning change is approximately 6 blocks to the east, to Neighborhood Commercial zoning at California Ave SW.



**Figure 1: Lots analyzed (dotted line)
For illustrative purposes only**

Many lots in the higher elevations of the SF 7200 zone are developed to take advantage of views to the west. The steep slope that runs north-south in this area has limited development to the upper portion of the lots on the west side of 49th Ave SW. Some of the larger lots have very small percentages of lot coverage in response to the steep slope constraints. These lots also have higher amounts of mature vegetation, especially in the steep slope areas. The subject property (labeled “Site” in Figure 1) is in this zone. The existing residence at this site is approximately 2,150 square feet in size, two stories tall, and has a 1,577 square foot footprint.

Lots in the SF 5000 zone are generally smaller and less sloped than the lots in the SF 7200 zone. The building footprints are similar to the footprints in the SF7200 zone, but the lot coverage percentages are generally higher, due to the smaller lot sizes and lack of steep slope. These lots generally have less mature vegetation and limited access to the views to the west.

Nearby residences have been built over time and include a large variety of sizes, heights, and architectural styles. Roads are paved and improved with sidewalks, curb, gutter, and planting strip.

Proposed: The proposed development includes one additional single family house with a garage at the ground floor. The house would be 2,808 square feet in size, three stories tall, with approximately a 1,144 square foot footprint. Several existing mature trees and shrubs will be retained, with additional trees and shrubs to be planted.

Land Use:

Existing: Existing land use in the immediate area is almost entirely single family detached residences with attached and detached garages.

Proposed: The proposed development consists of one additional single family detached residence with an attached garage.

Design:

Existing: Existing development consists of a range of architectural single family styles, representing popular vernacular architecture from the early 20th century to recent styles. Examples of architectural styles in the immediate vicinity include contemporary, Tudor revival, Craftsman bungalow, Colonial revival, mid-century Modern, and Tudor. The existing house at the subject property is Tudor revival style with a stucco finish.

Proposed: The proposed residence is reminiscent of American Foursquare architectural design style, with hipped roof, front porches and bay windows at the street facing first story, and visual symmetry.

Height: Height limits (SMC 23.44.012) are maximum 30' plus 5' for a 3:12 minimum sloped roof (35' total height), per Land Use Code requirements.

Existing: Houses in the analyzed area range from one to three stories tall (approximately 15' to 35' tall) and some include single story garages for one or more cars.

Proposed: The height of the proposed residence would be approximately 27 feet tall with an approximately 8' tall hipped roof. (35 total height). The residence would be two stories tall with a partial daylight basement. The garage at the lower level would make the building appear to be three stories tall when viewed from the street.

Bulk and Scale: Bulk and scale is measured using a variety of methods, including lot size, size of structures, footprint, comparisons of structure to lot size, and modulation.

Analysis of Surrounding Neighborhood and Proposed Development	
Footprint of existing residence on site	1,417
Footprint for proposed residence on site	1,383
Average footprint for surrounding neighborhood	1,288
Average footprint SF7200	1,218
Average footprint SF5000	1,396
Lot coverage for existing residence on existing site	5%
Proposed lot coverage for existing residence, unit lot A	8%
Proposed lot coverage for proposed residence, unit lot B	11%
Average lot coverage for surrounding neighborhood	15%
Average lot coverage (SF7200)	11%
Average lot coverage (SF5000)	23%
Lot size at existing site	30,590
Lot size of proposed unit lot A	18,065
Lot size of proposed unit lot B	12,525
Average lot size for surrounding neighborhood	10,485
Average lot size (SF7200)	12,572
Average lot size (SF5000)	6,690
Size of existing house on site	2,150
Size of proposed house on site	2,808
Average house size for surrounding neighborhood	1,916
Average house size (SF7200)	2,107
Average house size (SF5000)	1,569

Existing: Existing development in the area is commonly developed less intensely than allowed by the zoning standards. The pattern of lots developed far below zoning requirements is likely due to the views to the west, the large sizes of the lots, and the age of many of the single family structures.

Existing residences in the analyzed area are summarized using averages above. The size of individual residences varies greatly (ranging from 790 square feet to 4,170 square feet). Newer residences appear to be developed closer to Land Use Code maximums, and older residences appear to be underdeveloped for the site. The distribution of size of residences doesn't appear to have a clear pattern. As an example, four other residences in the surrounding neighborhood appear to be over 3,000 square feet in size, and seven other residences in the surrounding neighborhood appear to be less than 1,000 square feet in size.

Proposed: The proposed development would be developed more intensely than most existing neighborhood development, but would be developed at a lower amount than permitted under zoning standards, notwithstanding ECA development standards for steep slopes.

Proposed modulation: the front facade of the proposed residence would be 26'6" wide as viewed from 49th Ave SW, and 44' long on the north and south facades. The proposed residence facades include bay windows, a covered porch, a balcony, large windows, and other facade articulation.

In comparison, the existing residence on the subject property is 38'6" wide at the street frontage and 56'6" long on the north facade. The existing residence doesn't include a front porch or bay windows, and has less facade articulation than the proposed residence.

The existing residence is 2,150 square feet in size and the proposed residence would be 2,800 square feet in size. The size, bulk, and scale of these residences are well within the range of residential development found in the surrounding neighborhood.

Yards: The Land Use Code includes the following yard requirements in SF 7200 zones for lots longer than 125 feet (SMC 23.44.014):

- Front: 20' minimum, or an average of adjacent properties' front yards
- Rear: 25' minimum
- Sides: 5' minimum

Existing: Many residences on the west side of 49th Ave SW include smaller front and side yards, likely due to the location of the steep slope edge to the west. Most of the front and side yards appear to be close to the Land Use Code requirements in this area. The rear yards coincide with the steep slope; therefore, the rear yards on this side of the street far exceed the Land Use Code requirement in many cases. The rear yards on the east side of the street appear to be closer to the Land Use Code minimum. Generally, it appears that most lots in this area conform to minimum Land Use Code requirements.

Proposed: The proposal is being analyzed as a Unit Lot Subdivision, which means that individual units may have smaller than required yards, but the parent lot as a whole must meet yard requirements. The applicant has proposed a second residence on the lot that would meet all minimum yard requirements, even without the Unit Lot Subdivision allowance for smaller yards for individual unit lots.

Pedestrian Environment:

Existing: The existing pedestrian environment is well developed and offers sidewalks connecting residents to services six blocks to the east at California Ave SW, as well as access to other nearby residential areas.

Proposed: The proposed development will retain the existing pedestrian sidewalks and improvements.

Preservation of Tree Canopy and Vegetation:

Existing: Existing tree canopy is described in the response to SMC 25.09.260.B.2.b.

Proposed: Proposed planting of additional trees and vegetation is described in the response to SMC 25.09.260.B.2.b.

Summary for SMC 25.09.260.B.3.c:

The proposed residence meets the required development standards. The proposed parent lot meets lot coverage and yard development standards. The entire parent lot would have more residential square footage than nearby development, and the proposed new residence would be larger in size than the average for the area. However, the area includes a wide range of residential sizes and styles, and the proposed development would fall within the range of development found in the surrounding neighborhood. The proposed lot coverage is far below the average for nearby lots, and far below the maximum allowed in the Land Use Code.

If the subject property were developed with one single family lot under the Land Use Code requirements allowed by right, a new single family structure could easily exceed the height, bulk, and scale of the two structures on one lot that would result from this application. The creation of two unit lots and two separate structures with open space in the center of the lot results in less height, bulk and scale than could otherwise be developed under Land Use Code requirements.

The proposed tree removal has been kept to a minimum, and the applicant has proposed planting additional trees and shrubs. The pedestrian environment would be consistent with existing neighborhood character.

The proposal is found to be reasonably compatible with and keeps the negative impact to a minimum regarding neighborhood character, land use, design, height, bulk, scale, yards, pedestrian environment, and preservation of tree canopy and vegetation, subject to the conditions listed below.

C. Conditions.

- 1. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions necessary to protect riparian corridors, wetlands and their buffers, shoreline habitats and their buffers, and steep slope areas and their buffers, and to protect other properties in the zone or vicinity in which the property is located.***

Conditions addressing the protection of steep slope areas, wetland areas, and their buffers are listed below. Conditions are associated with requirements in other sections of the Environmentally Critical Areas code (SMC 25.09) and are not exclusively applicable to the ECA ACU review.

- 2. In addition to any conditions imposed under subsection 1, the following conditions apply to all administrative conditional uses approved under this subsection:***

- a. Replacement and establishment of native vegetation shall be required where it is not possible to save trees or vegetation.***

Existing trees proposed for retention and recommended for removal are described in the Arborist Report, described in response to SMC 25.09.260.B.2.b above. The Arborist Report includes a recommended tree protection plan for trees to be retained.

The proposal includes a planting plan with native vegetation in the proposed areas of tree and vegetation removal, and in the non-ECA portions of the site. The proposed additional vegetation is described in response to SMC 25.09.260.B.1.g above.

The proposal meets this criterion.

- b. Where new lots are created, the provisions of Section 23.22.062, Unit lot subdivisions, or Section 23.24.045, Unit lot subdivisions, apply, regardless of whether the proposal is a unit lot subdivision, so that subsequent development on a single lot does not result in the development standards of this chapter being exceeded for the short subdivision or subdivision as a whole.***

The applicant has submitted an application for a unit lot subdivision, which has been reviewed by DPD. The review of those criteria is included below. The proposal meets this criterion, subject to the unit lot subdivision conditions listed below.

DECISION – Administrative Conditional Use

The proposal is **CONDITIONALLY GRANTED.**

ANALYSIS - SEPA

Due to the presence of potential slide environmentally critical areas, the application is subject to SEPA review. SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review included identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated April 8, 2010. The information in the checklist, supplemental information provided by the applicant (soils report), project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" (subject to some limitations). Under certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected to the Environmentally Critical Areas on this site: soil erosion and sedimentation during general site work; and increased runoff. A discussion of potential impacts and mitigation follows.

Earth

The ECA Ordinance and Directors Rule (DR) 33-2006 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with landslide potential and/or a history of unstable soil conditions. The applicant has provided a geotechnical report, "Geotechnical Engineering Report, Residential Property, 5431 – 49th Ave SW, Seattle, Washington, File No. SOL2-14" by Tubbs Geosciences, dated March 10, 2010.

The construction plans (Application #6251061), including shoring of excavations as needed and erosion control techniques have received separate review by DPD geotechnical engineers. Any additional information showing conformance with applicable ordinances and codes (ECA ordinance, The Stormwater, Grading and Drainage Control Code, DR 33-2006, and 3-2007) will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces, and loss of plant and animal habitat.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the ECA Ordinance, the Stormwater, Grading and Drainage Control Code which requires provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

ANALYSIS - SHORT SUBDIVISION

Conformance to the provisions of Section 23.24.045, unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.

- A. *The unit subdivision provisions of SMC Section 23.24.045 apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, residential cluster developments, and single-family residences in zones where such uses are permitted.*
- B. *Sites developed or proposed to be developed with dwelling units listed in subsection A above, may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards based on analysis of the individual unit lot, except that any private, usable open space for each dwelling unit shall be provided on the same lot as the dwelling unit it serves.*
- C. *Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.*
- D. *Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space (such as common courtyard space for cottage housing), and other similar features, as recorded with the Director of the King County Department of Records and Elections.*
- E. *A joint use and maintenance agreement has been included on the short plat documents and should also be included on the final documents for recording.*
- F. *Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the Director of King County Department of Records and Elections.*
- G. *The fact that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.*

Summary - Unit Lot Subdivision

Review of this application shows that the proposed short subdivision would conform to applicable standards of SMC 23.24.045 subject to the conditions imposed at the end of this decision. The proposed development is one additional single family residence. The structure, as reviewed under the separate building permit, conforms to the development standards for the time the permit application was vested. To assure that future owners have constructive notice that additional development may be limited; the applicant has added a required note to the face of the plat that reads as follows: Include the following on the face of the plat: *“The unit lots created by unit lot subdivision are not separate buildable lots. Additional development on any individual unit lot in this unit lot subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code.”* A joint use and maintenance agreement is required and is shown on the face of the proposed plat documents.

DECISION – UNIT LOT SUBDIVISION

The proposed Unit Lot Subdivision is **CONDITIONALLY GRANTED**.

CONDITIONS – ENVIRONMENTALLY CRITICAL AREA ADMINISTRATIVE CONDITIONAL USE

Prior to Issuance of a Master Use Permit

1. Mark all areas on the plans west of the steep slope 15 foot buffer as “non-disturbance areas,” per SMC 25.09.060 and 25.09.335.
2. Permanent visible markers shall be placed along the edge of the Environmentally Critical Area and non-disturbance area. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the delineation where the line changes direction. Markers must be in place before issuance of this Master Use permit. Provide proof of placement to Land Use Planner via photograph, survey, or other acceptable means (Shelley Bolser, shelley.bolser@seattle.gov or (206) 733-9067).
3. Submit a recorded copy of the non-disturbance ECA Covenant (form to be provided by DPD) to the Land Use Planner (Shelley Bolser, shelley.bolser@seattle.gov or (206) 733-9067). The ECA Covenant shall include a legal description of the Environmentally Critical Area including buffer, and the location of the permanent visible markers.

Prior to Issuance of any Building Permit

4. Show on the site plan the location of the permanent ECA markers.
5. Show on building plans the location of a temporary, durable, highly visible construction fence at the boundary between the construction activity area and areas of steep slope and steep slope buffer which are to be left undisturbed, per SMC 25.09.060.
6. Include the Arborist recommended tree protection measures on the site plan and landscape plan, as detailed in the March 25, 2010 Arborist Report.

CONDITIONS – SEPA

None.

CONDITIONS – UNIT LOT SUBDIVISION

Conditions of Approval Prior to Recording

The owner(s) and/or responsible party(s) shall:

7. Add the conditions of approval after recording on the face of the plat or on a separate page. If the conditions are on a separate page, insert on the plat “For conditions of approval after recording see page ____ of ____.”
8. Provide on the plat the required Seattle City Light easement.
9. Have final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown. Lot areas shall be shown on the plat. The lot areas of each parcel shall be shown on the recording documents.
10. Submit the recording fee and final recording forms for approval.

Prior to Issuance of any Building Permit

11. The owner(s) and/or responsible party(s) shall attach a copy of the recorded short subdivision to all permit application plans for any application for a permit to construct, demolish, or change use.

Signature: (signature on file)
Shelley Bolser, AICP, LEED AP, Senior Land Use Planner
Department of Planning and Development

Date: September 23, 2010